

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R4-1-226 | Amend |
| R4-1-226.01 | New Section |
| R4-1-229 | Amend |
| R4-1-230 | Amend |
| R4-1-341 | Amend |
| R4-1-341.01 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-703
Implementing statutes: A.R.S. §§ 32-723 and 32-729
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 1873, June 13, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: George L. Beard, Deputy Director
Address: Accountancy Board
100 N. 15th Avenue, Ste. 165
Phoenix, AZ 85007
Telephone: (602) 364-0804
Fax: (602) 364-0903
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
Beginning in April 2004, the uniform CPA examination will be computer based. The conversion to the computer-based uniform CPA examination will enable testing of higher-level cognitive skills, permit integration of real-world entry-level requirements, provide flexibility and convenience to candidates, save time in administration, grading, and reporting, and provide added exam security.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
The agency relied upon data which is on file at the Board office located at 100 N. 15th Avenue, Ste. 165, Phoenix, AZ 85007.
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable

Notices of Proposed Rulemaking

8. The preliminary summary of the economic, small business, and consumer impact:

The economic impact of the proposed rule does not involve small business or consumers. Switching to a computer based exam only impacts the candidates for the CPA exam. The fees charged to the candidates by the Board actually drops from three hundred dollars for all four parts of the exam to one hundred for the initial exam and fifty dollars for re-exam, however, the fees charged by the exam providers does increase. It is widely recognized that the benefits of a more flexible, less rigid exam structure outweigh the costs to the candidates. The computer based model allows candidates to sit for the exam at their convenience. That means that candidates do not have to sit for all four parts of the exam in a two-day period. They may schedule one part of the exam at a time or in any order that they feel is in their best interest.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: George L. Beard, Deputy Director
Address: Accountancy Board
100 N. 15th Avenue, Ste. 165
Phoenix, AZ 85007
Telephone: (602) 364-0804
Fax: (602) 364-0903

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: August 20, 2003
Time: 8:30 a.m.
Location: Accountancy Board
100 N. 15th Avenue, Ste. 165
Phoenix, AZ 85007
Nature: Oral Proceeding

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 2. CPA EXAMINATION

Section

- R4-1-226. Applications; Examination - Paper and Pencil
R4-1-226.01. Applications; Examination - Computer-based
R4-1-229. Condition Credit
R4-1-230. Non-conditioned Candidates; Evidence of Additional Study

ARTICLE 3. CERTIFICATION AND REGISTRATION

Section

- R4-1-341. CPA Certificates; by Examination
R4-1-341.01. CPA Certificates; by Non-Arizona Examinee

ARTICLE 2. CPA EXAMINATION

R4-1-226. Applications; Examination - Paper and Pencil

- A. No change
B. No change
C. No change
1. No change
2. No change

Notices of Proposed Rulemaking

- 3. No change
- 4. No change
- 5. No change
 - a. No change
 - b. No change
 - c. No change
- D. No change
- E. No change
- F. This rule shall apply until such time the computer-based examination is implemented.

R4-1-226.01. Applications: Examination - Computer-based

- A. A person desiring to take the examination for qualification as certified public accountant shall apply on an application form provided by the Board and indicate which section(s) of the examination he is going to take. The Board shall provide different forms for initial examination and re-examination. The applicant shall submit the application form to the Board office with a registrar-certified, or the equivalent university or college transcript to confirm that the educational requirement in A.R.S. § 32-721 is completed.
- B. Filing date: An applicant shall file the appropriate application form and fees during the Board's normal business hours.
 - 1. After the applicant is approved to sit for the examination, an authorization to test (ATT) shall be issued by the Board to permit the applicant to test for specified section(s) of the examination. An ATT for the specified section(s) of the examination shall go into effect on the date of issuance.
 - 2. An applicant shall not have more than one open ATT for any section of the examination at the same time. At the time of application and during the time any ATT issued by the Board is open, the applicant shall not have an open ATT for the same section(s) in any other state or jurisdiction.
 - 3. After the applicant remits the required fees in subsection (C)(4), a notice to schedule (NTS) shall be issued to the applicant. If the applicant fails to comply with subsection (C)(4), a NTS will not be issued, the issued ATT shall be deemed expired and the applicant must reapply and obtain a new ATT in order to be able to test for the specified section(s).
 - 4. A NTS will enable the applicant to schedule testing at an examination test center and shall be valid until either the applicant schedules testing for the specified section(s) or six months have transpired since the date the NTS was issued, whichever occurs first.
 - 5. If an applicant does not pass a section of the examination during the time the applicant has an open ATT, the applicant shall not be allowed to test for that section until the applicant reapplies and is issued another ATT.
- C. Application fees: Pursuant to A.R.S. § 32-729, each applicant shall pay the examination fee in the following amount:
 - 1. Initial applicant: For an initial examination if the applicant has not previously filed an application examination in Arizona, \$100 at the time of application.
 - 2. Re-take applicant: For an applicant who has previously filed an application in Arizona for the examination, \$50 at the time of application.
 - 3. Out-of-state candidates: All candidates applying through a state other than Arizona, but sitting for the examination in Arizona, shall pay the applicable fee in subsections (C)(1) at the time of application.
 - 4. In addition to the fees in subsections (C)(1), (2), and (3), within 90 calendar days of the date an ATT is issued, the applicant must remit the required fees to the national association of state boards of accountancy to obtain a NTS.
 - 5. Refunds:
 - a. The Board may refund 1/2 of the examination fee in subsection (C)(1), (2), or (3) to an applicant who makes a written request and shows good cause. Examples of good cause include permanent or partial disability, illness, or a physical or mental condition, military service, or financial hardship that prevents the applicant from appearing for the examination.
 - b. Except as provided in subsection (C)(5)(a), the fee is forfeited by an applicant who withdraws after an ATT has been issued.
- D. The Board shall accept or reject an application or fee as provided by law and shall not hold an application or fee for future examination.
- E. This rule shall apply upon the implementation of a computer-based examination.

R4-1-229. Condition Credit

- A. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change

Notices of Proposed Rulemaking

- B. No change
- C. Upon the implementation of a computer-based examination, a candidate will be allowed to sit for each section individually and in any order.
 - 1. The candidate must pass all four sections of the examination within any 18-month period that begins on the date that the first section is passed. If the candidate does not pass all four sections within the 18-month period, the candidate may continue to take the exam, but must retake any previously passed section that falls earlier than 18 months from the date that the last section was passed.
 - 2. The candidate shall retain credit for any section passed for 18 months from the actual date the candidate passed the section. This credit is retained without having to attain a minimum score on failed sections and without regard to whether the candidate has taken other sections.
 - 3. The candidate shall not retake a failed section in the same examination window. An examination window refers to a three-month period in which the candidate has an opportunity to take the examination.
- D. Upon the implementation of a computer-based examination, the candidate will be given conditional credit for sections the candidate has conditioned under subsection (A).
 - 1. The candidate will have 18 months from the implementation of a computer-based examination in which to pass the remaining section(s). If the remaining sections are not passed, the candidate will lose credit for the section(s) passed.
 - 2. Notwithstanding subsection (D)(1), any section passed under the computer-based examination will be preserved under subsection (C).

R4-1-230. Non-conditioned Candidates; Evidence of Additional Study

- A. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
- B. No change
- C. No change
- D. Upon the implementation of a computer-based examination, subsections (A), (B), and (C) shall not apply.

ARTICLE 3. CERTIFICATION AND REGISTRATION

R4-1-341. CPA Certificates; by Examination

- A. Application: Upon passing all parts of the examination prescribed by A.R.S. § 32-723(C) at one sitting or ~~within the 3-year period as~~ prescribed by R4-1-229, a candidate believing himself or herself to be otherwise qualified under A.R.S. § 32-721, may apply for a certificate of certified public accountant. The candidate shall complete an application packet as prescribed by the Board. The application packet shall include the following information: applicant's background, personal data and photograph; examination scores; education and work history; university or college transcripts to confirm that the bachelor's degree and requirements have been completed; employer or employers name, address, and telephone number; authorization for investigation; and affirmation of truthfulness.
- B. No change
- C. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change
- E. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
- F. No change
 - 1. No change
 - 2. No change
 - 3. No change
- G. No change
 - 1. No change
 - 2. No change

3. No change

R4-1-341.01. CPA Certificates; by Non-Arizona Examinee

- A. Application: An applicant for certification who sat for the CPA examination, as prescribed by A.R.S. § 32-723(C), outside of Arizona, passed all parts of the CPA examination at one sitting or ~~within the 3-year period~~ as prescribed by R4-1-229, and who believes himself or herself to be otherwise qualified under A.R.S. § 32-721 shall comply with the application requirements as set forth in R4-1-341.
- B. No change
- C. No change
- D. No change

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-7-1301 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 32-904(B)(2)
- Implementing statute: A.R.S. § 32-907
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
- Notice of Rulemaking Docket Opening: 9 A.A.R. 1711, May 30, 2003
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Patrice A. Pritzl, Executive Director |
| Address: | 5060 N. 19th Avenue, Suite 416
Phoenix, AZ 85015-3210 |
| Telephone: | (602) 864-5088 |
| Fax: | (602) 864-5099 |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
- The proposed rule amendment will define the fee for researching, preparation, certifying, and mailing verification of license in good standing for licensure in another state.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
- Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
- Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**
- The economic impact is minor for the agency and the licensee. The public will not experience an economic impact.
- The agency currently provides this service at no fee, and therefore, a loss of revenue and resources. The agency will benefit by recouping associated costs of approximately \$25.00 per request. Licensees requesting a verification of license in good standing will pay the fee of approximately \$25.00 per request that is not currently incurred.
- The fee would closely mirror those fees other states charge for the same service. The rule amendment will clarify the fee in the same rule with other service fees.

Notices of Proposed Rulemaking

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Patrice A. Pritzl, Executive Director
Address: 5060 N. 19th Avenue, Suite 416
Phoenix, AZ 85015-3210
Telephone: (602) 864-5088
Fax: (602) 864-5099

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Written comments will be accepted at the Board office, 5060 N. 19th Avenue, #416, Phoenix, AZ, 85015 on business days between the hours of 8:00 a.m. and 5:00 p.m. until 5:00 p.m. on August 18, 2003. An oral proceeding is not scheduled but may be requested.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of the rules as follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD CHIROPRACTIC EXAMINERS

ARTICLE 13. FEES

Section

R4-7-1301. Additional Fees

ARTICLE 13. FEES

R4-7-1301. Additional Fees

A. The Board shall collect fees for services as follows:

1. \$40 for directories, labels or lists of licensees, applicants or other regulated parties.
2. \$40 for annual subscriptions for meeting minutes, agendas, or other agency documents published and provided on an ongoing basis for a period of one year.
3. \$10 for a jurisprudence booklet.
4. \$5 for a duplicate renewal receipt.
5. \$20 for a duplicate ornamental license.
6. \$20 for a duplicate ornamental certificate.
7. \$2 for a hard copy license or credential verification per each license verification requested.
8. 25¢ per page for the preparation and copying of public records.
9. \$25 for a verification of license in good standing.

B. All fees shall be non-refundable.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

1. Sections Affected

R4-23-110
R4-23-402
R4-23-408
R4-23-609

Rulemaking Action

Amend
Amend
Amend
Amend

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 32-1904(A)(1) and (2)

Implementing statute: A.R.S. § 32-1904(B)(3) and (5)

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 4425, October 18, 2002

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@msn.com

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Board staff identified minor clarity and consistency issues in R4-23-402, R4-23-408, and R4-23-609 that warrant amending those Sections. R4-23-110 is included in case changes in the other Sections dictate new or amended definitions. The words "supportive personnel" in R4-23-402(A)(9) will be changed to the words "pharmacy technician or pharmacy technician trainee." In November 1999, the Board amended the rules related to pharmacy technicians and did away with the term "supportive personnel," but this subsection was missed in that effort. Amending R4-23-402(A)(9) now will correct that oversight. The Board completed a revision of R4-23-408 in January 2001, but a phrase in the previous version of R4-23-408 that provided an exemption to compliance with R4-23-407(B) was inadvertently left out. R4-23-407(B) requires that a pharmacist document prescription refills on the back of the original hard-copy prescription. The previous version of R4-23-408 allowed an exemption to the physical hard-copy record-keeping of R4-23-407(B) if the pharmacy used a computer that complied with the computer requirements of R4-23-408. The proposed amendment to R4-23-408 will provided an exemption to R4-23-407(B) for those pharmacies that comply with the requirements of R4-23-408. R4-23-609(A) states that the minimum area of a community pharmacy "shall not be less than 300 square feet when a maximum of three pharmacy personnel are practicing or working simultaneously." It could be argued that this language means that a pharmacy with less than three personnel working simultaneously may have less than 300 square feet. When the rule was written, the Board intent was that the minimum area of a pharmacy is 300 square feet when one, two, or three pharmacy personnel are working in a pharmacy. The proposed rule will amend the language to clearly and concisely reflect the Board's intent. The amended rules will include format, style, and grammar changes necessary to comply with the current rules of the Secretary of State and Governor's Regulatory Review Council. When originally opened in October 2002, the docket contained the compounding rule, R4-23-410. At the January 2003 Board meeting, the Board president appointed a task force to review the compounding rule along with the sterile pharmaceuticals rule, R4-23-670. R4-23-410 was pulled from this rule package and placed with R4-23-670 in another open docket.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the professional practices required of pharmacists and interns and minimum standards for pharmacy computer systems and the area of a community pharmacy.

Notices of Proposed Rulemaking

6. **A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

8. **The preliminary summary of the economic, small business, and consumer impact:**

The rule changes have little or no economic impact on the regulated community, small business, or the general public. The rule changes improve the clarity, conciseness, and understandability of the rule. The only economic impact is on the Board for personnel time spent in the rulemaking process. That economic impact is minimal.

The Board, the public, and the pharmacy community benefit from rules that clearly establish the professional practices required of pharmacists and interns and minimum standards for pharmacy computer systems and the area of a community pharmacy.

9. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Dean Wright, Compliance Officer

Address: Board of Pharmacy
4425 W. Olive, Suite 140
Glendale, AZ 85302

Telephone: (623) 463-2727, ext. 131

Fax: (623) 934-0583

E-mail: rxcop@msn.com

10. **The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Comments may be written or presented orally. Written comments must be received by 5:00 p.m., Monday, August 18, 2003. An oral proceeding is scheduled for:

Date: August 18, 2003

Time: 10:00 a.m.

Location: 4425 W. Olive, Suite 140
Glendale, AZ 85302

A person may request information about the oral proceeding by contacting the person listed in item #9.

11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Not applicable

12. **Incorporations by reference and their location in the rules:**

None

13. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 1. ADMINISTRATION

Section

R4-23-110. Definitions

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

R4-23-408. Computer Requirements

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

Section

R4-23-609. Pharmacy Area of Community Pharmacy

ARTICLE 1. ADMINISTRATION

R4-23-110. Definitions

In addition to definitions in A.R.S. § 32-1901, the following definitions apply to A.A.C. Title 4, Chapter 23:

“Active ingredient” No change

“Alternate physician” No change

“Approved course in pharmacy law” No change

“Approved Provider” No change

“Authentication of product history” No change

“AZPLEX” No change

“Batch” No change

“Beyond-use date” No change

“Biological safety cabinet” No change

“Certified pharmacy technician” No change

“Class 100 environment” No change

“Community pharmacy” No change

“Component” No change

“Compounding and dispensing counter” means the pharmacy counter working area as defined in this Section where a pharmacist or a graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee under the supervision of a pharmacist compounds, mixes, combines, counts, pours, or otherwise prepares and packages the prescription medication needed to dispense an individual prescription order or prepackages a drug for future dispensing.

“Computer system” No change

“Computer system audit” No change

“Container” No change

“Continuing education” No change

“Continuing education activity” No change

“Continuing education unit” or “CEU” No change

“Contact hour” No change

“Correctional facility” No change

“CRT” No change

“Current good compounding practices” No change

“Current good manufacturing practice” No change

“Cytotoxic” No change

“Day” No change

“DEA” No change

“Delinquent license” No change

“Dispensing pharmacist” No change

“Drug sample” No change

“Drug therapy management” No change

“Drug therapy management agreement” No change

“Extreme emergency” No change

“FDA” No change

“Immediate notice” No change

“Inactive ingredient” No change

“Internal test assessment” No change

Notices of Proposed Rulemaking

“Limited-service correctional pharmacy” No change

“Limited-service mail-order pharmacy” No change

“Limited-service nuclear pharmacy” No change

“Limited-service pharmacy permittee” No change

“Long-term care consultant pharmacist” No change

“Lot” No change

“Lot number” or “control number” No change

“Materials approval unit” No change

“Mediated instruction” No change

“MPJE” No change

“NABP” No change

“NABPLEX” No change

“NAPLEX” No change

“Other designated personnel” No change

“Outpatient” No change

“Outpatient setting” No change

“Patient profile” No change

“Pharmaceutical care” No change

“Pharmacy counter working area” means a clear, continuous, and unobstructed working area that contains no major obstacles such as a desktop computer, computer monitor, computer keyboard, external computer drive device, printer, facsimile machine, pharmacy balance, typewriter, or pill-counting machine, but may contain individual documents or prescription labels, pens, prescription blanks, refill log, pill-counting tray, spatula, stapler, or other similar items necessary for the prescription filling process.

“Pharmacy law continuing education” No change

“Pharmacy technician” No change

“Prepackaged drug” No change

“Provider pharmacist” No change

“Radiopharmaceutical” No change

“Radiopharmaceutical quality assurance” No change

“Radiopharmaceutical services” No change

“Red C stamp” No change

“Remote drug storage area” No change

“Resident” No change

“Responsible person” No change

“Score transfer” No change

“Sight-readable” No change

“Single-drug audit” No change

“Single-drug usage report” No change

“Sterile pharmaceutical product” No change

“Strength” No change

“Supervision” No change

“Supervisory physician” No change

“Supplying” No change

“Support personnel” No change

“Transfill” No change

“Wholesale distribution” No change

“Wholesale distributor” No change

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-402. Pharmacist, Graduate Intern, and Pharmacy Intern

- A. A pharmacist or a graduate intern or pharmacy intern under the supervision of a pharmacist shall perform the following professional practices in dispensing a prescription medication from a prescription order:
1. Receive, reduce to written form, and manually initial oral prescription orders;
 2. Obtain and record the name of an individual who communicates an oral prescription order;
 3. Obtain, or assume responsibility to obtain, from the patient, patient's agent, or medical practitioner and record, or assume responsibility to record, in the patient's profile, the following information:
 - a. Name, address, telephone number, date of birth (or age), and gender;
 - b. Individual history including known diseases and medical conditions, known drug allergies or drug reactions, and if available a comprehensive list of medications currently taken and medical devices currently used;
 4. Record, or assume responsibility to record, in the patient's profile, a pharmacist's, graduate intern's, or pharmacy intern's comments relevant to the individual's drug therapy, including other information specific to the patient or drug;
 5. Verify the legality and pharmaceutical feasibility of dispensing a drug based upon:
 - a. A patients' allergies,
 - b. Incompatibilities with a patient's currently taken medications,
 - c. A patient's use of unusual quantities of dangerous drugs or narcotics,
 - d. A medical practitioner's signature, and
 - e. The frequency of refills;
 6. Verify that a dosage is within proper limits;
 7. Interpret the prescription order, which includes exercising professional judgement in determining whether to dispense a particular prescription;
 8. Compound, mix, combine, or otherwise prepare and package prescription medication needed to dispense individual prescription orders;
 9. Prepackage or supervise the prepackaging of drugs by ~~supportive personnel~~ a pharmacy technician or pharmacy technician trainee under R4-23-403 R4-23-1104. For drugs prepackaged by supportive personnel a pharmacy technician or pharmacy technician trainee, a pharmacist shall:
 - a. Verify the drug to be prepackaged;
 - b. Decide the wording and requirements placed on the label; ~~and~~
 - c. Check the completed prepackaging procedure and product; ~~and~~
 - d. Initial the completed label or for mechanical cassettes or cells, initial a written or electronic log;
 10. Check a prescription label to ensure that it communicates the prescriber's directions precisely;
 11. Make a final accuracy check on the completed prescription medication and manually initial the finished label, ~~except the manual initialing of the finished label is not required if the pharmacy's computer system complies with the computer documentation requirements of R4-23-408(B)(4);~~
 12. Record, or assume responsibility to record a prescription serial number and date dispensed on the original prescription order;
 13. Obtain or assume responsibility to obtain, permission to refill prescription orders and record, or assume responsibility to record, on the prescription order
 - a. Date dispensed,
 - b. Quantity dispensed, and
 - c. Name of medical practitioner or medical practitioner's agent who communicates permission to refill the prescription order;
 14. Reduce to written or printed form, or assume responsibility to reduce to written or printed form, a new prescription order received by:
 - a. Facsimile,
 - b. Computer modem,
 - c. Other means of communication;
 15. Verify and manually initial a new prescription order received by:
 - a. Facsimile,
 - b. Computer modem, or
 - c. Other means of communication;
 16. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who originally dispenses the order; and
 17. Record on the original prescription order the name or initials of the pharmacist, graduate intern, or pharmacy intern who dispenses each refill.

Notices of Proposed Rulemaking

- B.** Only a pharmacist, graduate intern, or pharmacy intern shall provide oral consultation about a prescription medication to a patient or patient's agent in all outpatient settings, including a patient discharged from a hospital. The oral consultation performed in a patient counseling area as prescribed in R4-23-609(D) is required whenever the following occurs:
1. The prescription medication has not been previously dispensed to the patient;
 2. A new prescription number is assigned to a previously dispensed prescription medication;
 3. The prescription medication has not been previously dispensed to the patient in the same strength or dosage form or with the same directions;
 4. The pharmacist, through the exercise of professional judgment, determines that oral consultation is warranted; or
 5. The patient or patient's agent requests oral consultation.
- C.** Oral consultation shall include:
1. The name, strength, and dosage form of a prescription medication or prescription-only device;
 2. The directions for use;
 3. The route of administration; and
 4. Special instructions, precautions, or storage requirements.
- D.** The pharmacist, through the exercise of professional judgment, may provide oral consultation that includes:
1. Common severe adverse effects, interactions, or therapeutic contraindications, and the action required if they occur;
 2. Techniques of self-monitoring drug therapy;
 3. The duration of the drug therapy;
 4. Prescription refill information; and
 5. Action to be taken if a dose is missed.
- E.** Nothing in subsection (B) shall be construed as requiring a pharmacist, graduate intern, or pharmacy intern to provide oral consultation if a patient or patient's agent refuses the consultation.
1. Only a pharmacist, graduate intern, or pharmacy intern shall accept a refusal for consultation.
 2. A pharmacist, graduate intern, or pharmacy intern shall document, or assume responsibility to document, a refusal for consultation on the original prescription order or document by alternative methods approved by the Board or its designee.
- F.** When a prescription is delivered to the patient or patient's agent outside the immediate area of a pharmacy and a pharmacist is not present, the prescription shall be accompanied by written or printed patient medication information that, in addition to the requirements in subsection (C), includes:
1. Approved use for the prescription medication;
 2. Possible adverse reactions;
 3. Drug-drug, food-drug, or disease-drug interactions;
 4. Missed dose information; and
 5. Telephone number of the dispensing pharmacy.
- G.** A prescription medication or prescription-only device, delivered to a patient at a location where a licensed health care professional is responsible for administering a prescription medication to a patient, is exempt from the requirement of subsection (C).
- H.** A pharmacist, graduate intern, or pharmacy intern shall wear a badge indicating name and title while on duty.
- I.** Nothing in this Section shall prevent hospital pharmacists from accepting prescription orders in accordance with rules pertaining specifically to hospital pharmacies.

R4-23-408. Computer Requirements

- A.** Systems Manual. A pharmacy permittee or pharmacist-in-charge shall:
1. Develop and implement policies and procedures for the following operational aspects of a computer system:
 - a. Examples of all output documentation provided by the computer system that contains original or refill prescription order or patient profile information;
 - b. Steps a pharmacy employee follows when the computer system is not operational due to scheduled or unscheduled system interruption;
 - c. Regular and routine backup file procedure and file maintenance;
 - d. Audit procedures, personnel code assignments, and personnel responsibilities; and
 - e. Quality assurance mechanism for data entry validation;
 2. Review and revise the policies and procedures biennially;
 3. Assemble the policies and procedures as a written manual or by another method approved by the Board or its designee; and
 4. Make the policies and procedures available within the pharmacy for reference by pharmacy personnel and inspection by the Board or its designee.
- B.** Computer system data storage and retrieval. A pharmacy permittee or pharmacist-in-charge shall ensure that the computer system is capable of:
1. Producing sight-readable information on all original and refill prescription orders and patient profiles;

Notices of Proposed Rulemaking

2. Providing on-line retrieval (via CRT display or hard-copy printout) of original prescription order information required in A.R.S. § 32-1968(C), A.A.C. R4-23-402(A), and R4-23-407(A);
 3. Providing on-line retrieval (via CRT display or hard-copy printout) of patient profile information required in A.A.C. R4-23-402(A);
 4. Providing documentation identifying the pharmacist responsible for dispensing each original or refill prescription order, except a pharmacy permittee with a computer system, that is in use before the effective date of this Section that cannot provide documentation identifying the dispensing pharmacist, may continue to use the computer system by providing manual documentation identifying the dispensing pharmacist;
 5. Producing a printout of all prescription order information, including a single-drug usage report that contains:
 - a. The name of the prescribing medical practitioner;
 - b. The name and address of the patient;
 - c. The quantity dispensed on each original or refill prescription order;
 - d. The date of dispensing for each original or refill prescription order;
 - e. The name or identification code of the dispensing pharmacist; and
 - f. The serial number of each prescription order; and
 6. Providing a printout of requested prescription order information to an individual pharmacy within 72 hours of the request if prescription order information is maintained in a centralized computer record system.
- C. A pharmacy permittee or pharmacist-in-charge of a pharmacy that ~~begins using~~ uses a pharmacy computer system:
1. ~~shall~~ Shall notify the D.E.A. and the Board in writing that original and refill prescription information and patient profiles are ~~now contained~~ stored in a pharmacy computer system;
 2. Shall comply with this Section if the pharmacy computer system's refill records are used as an alternative to the manual refill records required in R4-23-407(B);
 3. Is exempt from compliance with the manual refill recordkeeping requirements of R4-23-407(B), except as specified in subsections (D) and (E), if the pharmacy computer system complies with the requirements of this Section.
 4. Shall ensure that documentation of the correctness of original and refill information entered into a computer system is provided by each pharmacist using the computer system. Documentation includes one of the following:
 - a. A hard-copy printout of each day's original and refill data that:
 - i. States that original and refill data for prescriptions dispensed by each pharmacist was reviewed by each pharmacist and is correct;
 - ii. Is signed and initialed by each pharmacist who dispensed prescriptions; and
 - iii. Includes the printed name of each dispensing pharmacist with their signature and initials; or
 - b. A log book or separate file of daily statements that:
 - i. State that original and refill data for prescriptions dispensed by each pharmacist was reviewed by each pharmacist and is correct;
 - ii. Is signed and initialed by each pharmacist who dispensed prescriptions; and
 - iii. Includes the printed name of each dispensing pharmacist with their signature and initials.
- D. If a pharmacy computer system does not comply with the requirements of subsections (A) or (B), the pharmacy permittee or pharmacist-in-charge shall bring the computer system into compliance within three months of a notice of noncompliance or violation letter. If the computer system is still non-compliant with subsections (A) or (B) after three months, the pharmacy permittee or pharmacist-in-charge shall immediately comply with the manual recordkeeping requirements of R4-23-402 and R4-23-407.
- E. If a pharmacy's personnel perform manual recordkeeping under subsection (D), the pharmacy's personnel shall continue manual recordkeeping until the pharmacist-in-charge sends proof, verified by a Board compliance officer, that the computer system complies with subsections (A) and (B).
- F. Security. To maintain the confidentiality of patient records, a pharmacy permittee or pharmacist-in-charge shall ensure that:
1. The computer system has security and systems safeguards designed to prevent and detect unauthorized access, modification, or manipulation of prescription order information and patient profiles; and
 2. After a prescription order is dispensed, any alteration of prescription order information is documented, including the identification of the pharmacist responsible for the alteration.
- G. A computer system that does not comply with all the requirements of subsections (A) and (B) may be used in a pharmacy if:
1. The computer system was in use in the pharmacy before the effective date of this Section, and
 2. The pharmacy complies with the manual recordkeeping requirements of R4-23-402 and R4-23-407.

ARTICLE 6. PERMITS AND DISTRIBUTION OF DRUGS

R4-23-609. Pharmacy Area of Community Pharmacy

- A. Minimum area of community pharmacy: The minimum area of a community pharmacy, the actual area primarily devoted to stocking drugs restricted to pharmacists, and to the compounding and dispensing of prescription medication, exclusive of office area or other support function area, shall not be less than 300 square feet, ~~when a~~ A maximum of three pharmacy personnel ~~are practicing or working~~ may practice or work simultaneously ~~in the minimum area~~. For each additional pharmacist, ~~or graduate intern, or clerical pharmacy intern, pharmacy technician, pharmacy technician trainee, or support personnel~~ who may practice or work simultaneously, an additional 60 square feet of floor area shall be provided. All of the allotted square footage area, including adequate shelving, shall lend itself to efficient pharmaceutical practice and permit free movement and visual surveillance of personnel by the pharmacist.
- B. Compounding and dispensing counter: ~~There~~ For any pharmacy permit issued or pharmacy remodeled after January 6, 2004, there shall be a compounding and dispensing counter ~~which that~~ shall provide a minimum of ~~40~~ three square feet of ~~unobstructed pharmacy counter~~ working area of not less than 16 inches in depth and 24 inches in length for the practice of one pharmacist, ~~graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee~~. For each additional pharmacist, ~~or graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee~~ practicing simultaneously, there shall be an additional ~~40~~ three square feet of ~~unobstructed pharmacy counter~~ working area of not less than 16 inches in depth and 24 inches in length. A pharmacy's total required compounding and dispensing counter area is obtained by multiplying the maximum number of personnel allowed in the pharmacy area using the requirements specified in subsection (A) by three square feet per person. If a pharmacy permittee or pharmacist-in-charge does not simultaneously work the maximum number of personnel allowed in the pharmacy area using the requirements specified in subsection (A), the pharmacy permittee or pharmacist-in-charge may operate the pharmacy with a total pharmacy counter working area that is equal to the actual maximum number of pharmacists, graduate interns, pharmacy interns, pharmacy technicians, and pharmacy technician trainees, working simultaneously in the pharmacy area times three square feet per person.
- C. Working area for dispensing counter: The floor area to be occupied by the pharmacist, ~~or graduate intern, pharmacy intern, pharmacy technician, or pharmacy technician trainee~~ at the compounding and dispensing counter shall extend the full length of the counter and be clear and unobstructed for a minimum of 36 inches therefrom.
- D. Area for ~~oral communication: patient counseling~~. Any pharmacy permit issued or pharmacy remodeled after April 1, 1995 shall provide ~~an a separate and distinct patient counseling area for the purpose of patient oral communication that through a pharmacist's due diligence and good faith provides patient privacy~~. This rule shall not apply to a pharmacy that is exempt from the requirements of R4-23-402(B).
- E. Narcotic cabinet or safe: Narcotics and other controlled substances may be housed in a separate locked cabinet or safe, or they may be dispersed throughout the pharmacy to prevent diversion according to the requirements of the federal laws and regulations pertaining thereto.
- F. Building security standard of community pharmacy area: ~~In order for the pharmacy area to be left without a pharmacist on duty when other people are in the store, it shall be secured by either a complete physical barrier with suitable locks or a partial physical barrier with an electronic security barrier to detect entry at a time the pharmacist is not present. Such electronic security barrier, prior to use, must be approved by the Board or its designee.~~
1. ~~Complete physical barrier:~~ The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter to structural ceiling or roof, with entry doors that can be securely locked. The barrier shall be so designed that only a pharmacist shall have access to the area where prescription-only drugs, narcotics, and other controlled substances restricted to sales by pharmacists are stored, compounded and dispensed. ~~If a pharmacy area is continually attended by a pharmacist while other people are in the store, it need not be enclosed by a permanent barrier. Where the~~ The permanent barrier is required, it may be constructed of other than a solid material. If constructed of a material other than a solid, the openings or interstices of the material shall not be large enough to permit removal of items in the pharmacy area by any means. Any material used in the construction of the permanent barrier must be of sufficient strength and thickness that it cannot be readily or easily removed, penetrated, or bent. The plans and specifications of the permanent barrier shall be submitted to the Board for approval that it affords the security as required in this Section.
 2. ~~Partial physical barrier:~~ The pharmacy area shall be enclosed by a permanent barrier or partition from floor or counter ~~to the false or drop ceiling, with entry doors that can be securely locked. The permanent physical barrier shall be a minimum 84 inches high. A pharmacy area enclosed by a partial physical barrier shall also be enclosed by an electronic security barrier approved by the Board or its designee.~~
 3. ~~Electronic pharmacy security:~~ An electronic pharmacy security system shall provide sound and motion detection ~~or be a system that provides intrusion protection of equal or greater effectiveness as determined by the Board or its designee. The system shall provide direct notification to a local law enforcement office or security organization that provides continuous monitoring. The specifications of the electronic systems shall be submitted to the Board for approval with the appropriate fee prior to installation to ensure the system affords security required in the section.~~

Notices of Proposed Rulemaking

~~After installation the system shall be inspected by the Board or its designee and certified provided that the system complies with the previously approved plans and specifications. A quarterly report of system inspections and an entry log shall be available for inspection by the Board or its designee. Nothing in this section shall prevent a pharmacy with a complete physical barrier from utilizing an electronic security system.~~

- G. Drug storage and security: All areas where drugs and devices are stored shall be dry, adequately lighted and ventilated, and maintained in a clean and orderly condition. Storage areas shall be maintained at temperatures which will ensure the integrity of the drugs prior to their dispensing as stipulated by the official compendium as defined in A.R.S. § 32-1901(43)(52) or the manufacturer's or distributor's labeling. When an additional storage area is required for drugs that are restricted to pharmacists, the area shall also be contained by a permanent barrier from floor or counter to structural ceiling or roof. All doors or gates to the storage area shall be able to be locked and only a pharmacist with a key shall be permitted to enter the storage area, except in an extreme emergency.
- H. ~~The prescription~~ A pharmacy permittee or pharmacist-in-charge shall ensure that the pharmacy working counter shall be separated from the public area is protected from unauthorized access by a barrier not less than 66 inches in height or another method approved by the Board or its designee.

NOTICE OF PROPOSED RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 26. ARIZONA COMMISSION FOR THE DEAF AND HARD OF HEARING

PREAMBLE

1. Sections Affected

Article 5
R9-26-501
R9-26-502
R9-26-502
R9-26-503
R9-26-503
R9-26-504
R9-26-504
R9-26-505
R9-26-506
R9-26-506
R9-26-507
R9-26-507
R9-26-508
R9-26-508
R9-26-509
R9-26-509
R9-26-510
R9-26-510
R9-26-511
R9-26-511

Rulemaking Action

Amend
Amend
Repeal
New Section
Repeal
New Section
Repeal
New Section
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section
Repeal
New Section

2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):

Authorizing statute: A.R.S. § 36-1946(1)

Implementing statute: A.R.S. § 36-1946

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 2850, July 5, 2002

4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Rob Voreck, Licensing & Certification Coordinator

Address: Arizona Commission for the Deaf and Hard of Hearing
1400 W. Washington, Room 126
Phoenix, AZ 85007

Notices of Proposed Rulemaking

Telephone: (602) 542-3286

Fax: (602) 542-3380

5. An explanation of the rule, including the agency's reasons for initiating the rule:

The Arizona Commission for the Deaf and Hard of Hearing is updating Title 9, Chapter 26, Article 5 to reflect new licensing requirements and application procedures as well as utilizing current rulewriting techniques to make the rules more clear, concise, and understandable.

6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rules on application procedures are an administrative burden on the Commission and licensees. The standards required in the rules for legal interpreters are minimal and obsolete and needs to be increased and updated to reflect current interpreting standards. The economic impact on small businesses and consumers is expected to be minimal in terms of costs. The economic impact on other state agencies, such as the Office of the Secretary of State and the Governor's Regulatory Review Council, is expected to be minimal.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Rob Voreck, Licensing & Certification Coordinator

Address: Arizona Commission for the Deaf and Hard of Hearing
1400 W. Washington, Room 126
Phoenix, AZ 85007

Telephone: (602) 542-3286

Fax: (602) 542-3380

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Oral proceedings are scheduled for 5:00 p.m., August 29, 2003, at the Arizona Commission for the Deaf and the Hard of Hearing, 1400 W. Washington, Phoenix, AZ, 85007. Written comments about the proposed rule may be submitted to the person identified in item #4 until 5:00 p.m. on August 28, 2003.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules:

TITLE 9. HEALTH SERVICES

CHAPTER 26. ARIZONA COMMISSION FOR THE DEAF AND HARD OF HEARING

ARTICLE 5. ~~INTERPRETER CERTIFICATION~~ LEGAL INTERPRETER LICENSURE

Section

R9-26-501. Definitions

R9-26-502. ~~Process for Obtaining Interpreters~~ Sign Language Legal Interpreter Licensure

R9-26-503. ~~Sign Language Interpreter Certification~~ Deaf Legal Interpreter Licensure

R9-26-504. ~~Temporary Sign Language Interpreter Certification~~ Provisional Sign Language Legal Interpreter Licensure; Provisional Deaf Legal Interpreter Licensure

R9-26-505. ~~Expired Oral Legal Interpreter Licensure~~

R9-26-506. ~~Oral Interpreter Certification~~ Realtime Reporter Licensure

R9-26-507. ~~Realtime Reporter Certification~~ License Application Time-frames; Processing Procedures

Notices of Proposed Rulemaking

- R9-26-508. Application Processing Procedures; Issuance; Denial License Denial; Revocation; Complaint Process
R9-26-509. Certification Renewal Rehearing or Review of Decisions
R9-26-510. Certification Revocation License Renewal
R9-26-511. Rehearing or Review of Decisions Grandfathering of Legal Interpreters

ARTICLE 5. ~~INTERPRETER CERTIFICATION~~ LEGAL INTERPRETER LICENSURE

R9-26-501. Definitions

The following definitions apply in this Article ~~In this Article, unless otherwise specified:~~

1. "Accredited" means approved by the:
 - a. New England Association of Schools and Colleges.
 - b. Middle States Association of Colleges and Secondary Schools.
 - c. North Central Association of Colleges and Schools.
 - d. Northwest Association of Schools and Colleges.
 - e. Southern Association of Colleges and Schools, or
 - f. Western Association of Schools and Colleges.
- ~~1-2.~~ "Applicant" means an individual who submits a completed application, and documentation to the Council to obtain a certificate of competency seeking licensure by the Commission.
- ~~2-3.~~ "Application" means a form provided to applicants by the Council, requiring the following information: the forms and documents the Commission requires an applicant for licensing to submit or have submitted on the applicant's behalf.
 - a. A photograph, measuring not less than 1 inch by 1 inch, of the applicant that was taken within 5 years of the date of filing the application;
 - b. The applicant's full current name and any former names;
 - e. The applicant's current address and telephone number;
 - d. The applicant's social security number;
 - e. Whether the applicant previously has applied for a certificate of competency;
 - f. The applicant's notarized signature, attesting to the truthfulness of the information provided by the applicant; and
 - g. The documentation required by this Article.
3. "ASL" means American Sign Language, the visual language used by deaf persons in the United States to communicate.
4. "CCP" means a certified CART provider certificate issued by NCRA.
- ~~4-5.~~ "CDI" means a certified deaf interpreter certificate, ~~a certification issued by RID, evidencing that the certificate holder is deaf or hard of hearing, and performs at or above RID standards for deaf interpreters, but provides interpretation services with a hearing qualified interpreter.~~
6. "CDI-P" means a certified deaf interpreter provisional certificate issued by the Commission.
- ~~5-7.~~ "Certificate of competency" means a certificate document issued by the ~~Council~~ Commission indicating that the certificate holder has met the criteria set forth in this Article ~~for the provision of interpretation services to deaf persons in court proceedings, government entity proceedings, and law enforcement encounters.~~
6. "Certification" means a currently valid card issued by RID, with the word "certified", and the categories in which the cardholder is certified, listed under the cardholder's name.
7. "Certified copy" means having a copy of the original document notarized as being a true and accurate copy of the original.
8. "CI" means a certificate of interpretation; issued by RID, evidencing that the certificate holder performs at or above RID standards for sign language interpreters who interpret between ASL and English in both sign to voice and voice to sign.
9. "Commission" means the Arizona Commission for the Deaf and the Hard of Hearing.
- ~~9-10.~~ "Continuing legal education" means seminars sponsored by a bar association, law firm, law department, or government entity, at which attendance is not limited to members of the association, firm, department, or entity, and that constitute an organized program of learning, dealing with matters directly related to the practice of law, and following an agenda defined by written materials or exercises distributed as part of the program a course, workshop, program, or educational activity that is relevant to the practice of legal interpreting.
10. "Council" means the Council for the Hearing Impaired.
11. "Court" means a place where people are officially assembled for the administration of justice, including all proceedings before every Grand Jury, Municipal Court, Justice Court, Magistrate Court, Superior Court, Court of Appeals, and Supreme Court in Arizona.
- ~~12-11.~~ "CRR" means a certified realtime reporter ~~certification certificate~~ issued by the NCRA, ~~reflecting that the certificate holder has the training, experience, skills, and equipment to provide realtime on-screen translation, with at least 96% accuracy, for a deaf person in a proceeding.~~

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

- ~~13.12.~~ “CSC” means a comprehensive skills certificate issued by RID, ~~evidencing that the certificate holder performs at or above RID standards for sign language interpreters who interpret between ASL and English, and convert spoken English to an English-based sign system, in both sign-to-voice and voice-to-sign.~~
- ~~14.13.~~ “CT” means a certificate of transliteration issued by RID ~~and evidencing that the certificate holder performs at or above RID standards for sign language interpreters who convert spoken or written English to an English-based sign system, in both sign-to-voice and voice-to-sign.~~
14. “Interpreter” means a person who provides interpreting services.
15. “Custody” means that a person in a law enforcement encounter is not free to leave “Interpreting” means the act of conveying a spoken message into sign language and conveying a message in sign language into the spoken word.
16. “Deaf person” means a person who is unable to fully process linguistic information through hearing, including any person who has an average pure tone decibel loss greater than 20dB in the better ear, any person who is observed by a court, government entity, or law enforcement personnel, without an interpreter, to need communication assistance to effectively participate in the proceeding, or any person who is hard of hearing, regardless of whether they wear hearing aids “Legal interpreter” means a person who has a legal interpreter license.
17. “English-based sign system” means using conceptually accurate American signs in English syntax. This is distinguishable from finger spelling using the alphabet, and from ASL, which also uses American signs, but not necessarily in conceptually accurate English syntax “Legal interpreter license” means a certificate of competency issued under A.R.S. § 36-1946.
18. “Executive Secretary” means the executive officer of the Council who is responsible for implementing the Council’s programs and activities, under A.R.S. § 36-1942 “Legal interpreting” means providing interpreting services in a setting specified in A.R.S. § 12-242(A) through (D).
19. “Government entity” means any department, board, commission, agency, or licensing authority of Arizona, or a political subdivision of Arizona “Legal training” means a course, workshop, program, or educational activity that is relevant to the practice of legal interpreting.
20. “Intermediary interpreter” means a person holding a CDI certificate, an RSC certificate, or any person that a deaf person chooses to assist with interpretation services between the deaf person and a qualified interpreter “Licensee” means a person who has a legal interpreter license.
21. “Law enforcement encounter” means any situation where a deaf person is questioned, arrested, or taken into custody for any alleged violation of Arizona criminal law, by any law enforcement personnel “Mentoring” means being under the supervision of a sign language legal interpreter or deaf legal interpreter.
22. “NAD” means the National Association of the Deaf.
23. “NAD Level 5” means a master interpreting certificate issued by NAD.
- ~~22.24.~~ “NCRA” means the National Court Reporters Association.
- ~~23.25.~~ “OIC:C” means an oral interpretation certificate: comprehensive issued by RID, ~~evidencing that the certificate holder performs at or above RID standards for oral interpreters.~~
- ~~24.26.~~ “Oral Interpreter interpreting” means a person who mouths a spoken message so that a deaf person can accurately speech read and understand the intent of the spoken message, and who accurately verbalizes the message and intent of the deaf person’s speech and mouth movements rendering visible or audible language from a deaf person and conveying it in speech understandable by a non-deaf person and, using verbal and non-verbal support techniques, conveying spoken language to the deaf person.
25. “Party” means a deaf person who is a parent of a juvenile, a witness, complainant, defendant, or attorney in a court proceeding; a deaf person who is a principal party of interest, or a witness in a government entity proceeding; or a deaf person who is a defendant, or a criminal suspect in a law enforcement encounter.
26. “Proceeding” means any civil, criminal, or grand jury proceeding; any government entity proceeding; or any law enforcement encounter.
27. “Qualified interpreter” means a person who has a certificate of competency issued by the Council, and who is a court reporter who provides realtime translation, a sign language interpreter, or an oral interpreter “OTC” means an oral transliteration certificate issued by RID.
28. “Realtime translation reporting” means a court reporter’s computer-aided assisted method of accurately and simultaneously translating and displaying spoken words, including punctuation, in live proceedings, within 5 seconds of steno-type input, for a deaf person to read keying, translating, and displaying spoken words as they occur.
29. “RID” means Registry of Interpreters for the Deaf.
30. “RSC” means a reverse skills certificate, which is the prior name of a CDI, and is synonymous with CDI “RPR” means registered professional reporter certification issued by NCRA.
31. “SC:L” means specialist certificate: legal issued by RID, ~~evidencing that the certificate holder has specialized knowledge of the legal system, and performs at or above RID standards for interpreting in proceedings.~~
32. “Sign language interpreter” means a person who has a: (1) CI and CT; (2) CSC; (3) CDI; (4) RSC; or (5) SC:L certification from RID a visual language used by deaf persons to communicate.
33. “Speech read” means determining what a person is saying by the person’s mouth movements, body language, and the

Notices of Proposed Rulemaking

context of the conversation.

~~34.33. "Supervision" means that the supervising qualified interpreter has direct, in person contact with the interpreter that he or she is supervising, and provides orientation information to the supervisee about providing interpreter services in proceedings, observes the supervisee providing interpretation services in proceedings, has the supervisee observe the supervisor providing interpretation services in proceedings, and provides feedback to the supervisee about the supervisee's performance the direct observation of and guidance by a sign language legal interpreter or deaf legal interpreter.~~

R9-26-502. Process for Obtaining Interpreters Sign Language Legal Interpreter Licensure

- ~~A. The court, government entity, or law enforcement personnel responsible for obtaining a qualified interpreter in any proceeding where a deaf person is a party, shall follow the steps stated in subsection (B).~~
- ~~B. The court, government entity, or law enforcement personnel shall:~~
- ~~1. Determine whether a party is a deaf person, either based on the party's request, or on the observation of the court, governmental entity, or law enforcement personnel;~~
 - ~~2. Once a party is determined to be deaf, determine from the deaf person whether the deaf person needs sign language interpretation, oral interpretation, court reporter realtime translation, or a combination of interpretation services;~~
 - ~~3. Determine, for sign language interpretation services, whether the deaf person needs ASL or an English-based sign system;~~
 - ~~4. Arrange for a qualified interpreter to provide interpretation services; and~~
 - ~~5. Determine from the deaf person whether the qualified interpreter meets the deaf person's communication needs at the outset of the proceeding or encounter, either upon complaint by the deaf person, or by observation of the court, government entity, or law enforcement personnel.~~
- ~~C. The deaf person may object to the qualified interpreter because the interpreter cannot meet the deaf person's communication needs. The court, government entity, or law enforcement personnel shall then appoint either an intermediary interpreter to work with the qualified interpreter or may provide another qualified interpreter that can meet the deaf person's communication needs.~~
- ~~A. To be eligible for a sign language legal interpreter license, an applicant shall:~~
- ~~1. Hold a current NAD Level 5, RID CI and CT, CSC, or SC:L certification;~~
 - ~~2. Hold, at a minimum, an associate of the arts degree awarded by an accredited academic institution, in any academic field or documentation of 60 credit hours or the equivalent of 60 credit hours from an accredited academic institution;~~
 - ~~3. Have completed a minimum of six hours of legal training;~~
 - ~~4. Have completed a minimum of five years experience in interpreting;~~
 - ~~5. Have completed a minimum of 40 hours of mentoring under the supervision of a sign language legal interpreter or deaf legal interpreter. This subsection does not apply to applicants who hold SC:L certification.~~
- ~~B. An applicant for licensure as a sign language legal interpreter shall submit to the Commission documentation of compliance with the requirements of subsection (A) and an application form that provides the following information:~~
- ~~1. The applicant's name, current home address, business address, and home and business telephone numbers;~~
 - ~~2. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;~~
 - ~~3. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;~~
 - ~~4. A list of all states and countries in which the applicant is or has been licensed as a legal interpreter;~~
 - ~~5. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state, country, or organization upon the applicant's legal interpreter license or interpreter certification;~~
 - ~~6. A statement of whether the applicant has a physical or mental condition that may impair the applicant's ability to act as a legal interpreter; and~~
 - ~~7. A statement signed by the applicant verifying the truthfulness of the information provided by the applicant.~~
- ~~C. After August 1, 2005, an applicant shall hold RID SC:L certification to be licensed under this Section.~~

R9-26-503. Sign Language Interpreter Certification Deaf Legal Interpreter Licensure

- ~~A. The Council may issue a certificate of competency to an applicant who files an application with the Council, and submits all of the following:~~
- ~~1. A certified copy of the applicant's sign language interpreter RID certification;~~
 - ~~2. An affidavit signed by the applicant, and notarized, attesting whether the applicant:~~
 - ~~a. Is a CI and CT, CSC, or SC:L certificate holder and has at least 2,000 hours of sign language interpreting experience within the five years immediately preceding the date of filing the affidavit with the Council, or is a CDI or RSC certificate holder and has at least 50 hours of sign language interpreting experience within the five years immediately preceding the date of filing the affidavit with the Council;~~

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

- b. ~~Has ever been disciplined, or is currently the subject of any disciplinary action, in any jurisdiction or before RID relating to providing interpreting services or adhering to the RID Code of Ethics, set forth in subsection (C);~~
- e. ~~Has ever been named, or is currently named, as a defendant in any law suit alleging the applicant was negligent in providing the applicant's interpreter services or alleging that the applicant violated the RID Code of Ethics, set forth in subsection (C);~~
- d. ~~Follows the RID Code of Ethics, set forth in subsection (C), including the obligation to be absolutely neutral in all proceedings;~~
- e. ~~Understands that the applicant shall ensure that the applicant's interpreting skills meet the deaf person's communication needs, and that failure to do so may be grounds for revocation of the applicant's certificate of competency;~~
- f. ~~Understands that the applicant shall complete the continuing education requirements necessary to maintain current RID certification in the category or categories in which the Council issued the applicant's certificate of competency;~~
- g. ~~Understands that the applicant shall complete at least three clock hours of continuing legal education every year in addition to RID continuing education requirements, shall maintain accurate records of compliance with this subsection, and shall produce the records upon the Council's request; and~~
- h. ~~Understands that the applicant shall obtain RID SC:L certification by January 1, 2005.~~
- 3. ~~Documentation that the applicant has provided at least 20 hours of sign language interpretation services to a deaf person under the supervision of a qualified interpreter in proceedings.~~
- B.** ~~After January 1, 2005, a RID SC:L certification shall be the only RID certification that shall satisfy subsection (A)(1).~~
- C.** ~~Interpreters shall comply with the following RID Code of Ethics requirements:~~
 - 1. ~~Keep all interpreting assignment related information confidential;~~
 - 2. ~~Render the message to accurately convey the content and spirit of the speaker, using language that the deaf person readily understands;~~
 - 3. ~~Not counsel, advise, or interject personal opinions;~~
 - 4. ~~Accept assignments using discretion with regard to their skills, the setting, and the deaf person involved;~~
 - 5. ~~Request compensation for services in a professional and judicious manner;~~
 - 6. ~~Maintain high professional standards in providing services, including maintaining absolute neutrality in all proceedings; and~~
 - 7. ~~Further their knowledge and skills by participating in workshops, professional meetings, interacting with professional colleagues, and reading current literature.~~
- A.** To be eligible for a deaf legal interpreter license, an applicant shall:
 - 1. Hold a current RID CDI or CDI-P certification;
 - 2. Hold, at a minimum, an associate of the arts degree, awarded by an accredited academic institution, in any academic field; or documentation of 60 credit hours or the equivalent of 60 credit hours from an accredited academic institution;
 - 3. Have completed a minimum of six hours of legal training;
 - 4. Have completed a minimum of two years of interpreting; and
 - 5. Have completed a minimum of 40 hours of mentoring under the supervision of a sign language legal interpreter or deaf legal interpreter.
- B.** An applicant for licensure as a deaf legal interpreter shall submit to the Commission documentation of compliance with the requirements of subsection (A) and an application form that provides the following information:
 - 1. The applicant's name, current home address, business address, and home and business telephone numbers;
 - 2. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;
 - 3. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;
 - 4. A list of all states and countries in which the applicant is or has been licensed as a legal interpreter;
 - 5. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state, country, or organization upon the applicant's legal interpreter license or interpreter certification;
 - 6. A statement of whether the applicant has a physical or mental condition that may impair the applicant's ability to act as a legal interpreter; and
 - 7. A statement signed by the applicant verifying the truthfulness of the information provided by the applicant.
- C.** After July 1, 2004, an applicant shall hold RID CDI certification to be licensed under this Section.

Notices of Proposed Rulemaking

R9-26-504. ~~Temporary Sign Language Interpreter Certification~~ Provisional Sign Language Legal Interpreter Licensure; Provisional Deaf Legal Interpreter Licensure

- ~~A.~~ The Council may issue a temporary sign language interpreter certificate of competency to an applicant, who holds a CI and CT, CSC, or CDI RID certification, to provide interpretation services in proceedings under the supervision of a qualified interpreter for one year. This applicant shall file an application with the Council, and submit the following:
- ~~1. A certified copy of the applicant's CI and CT, CSC, or CDI RID certification; and~~
 - ~~2. The names and addresses of the applicant's qualified interpreter supervisors.~~
- ~~B.~~ The temporary certificate of competency shall automatically expire one year after the date of issue. The temporary certificate holder shall provide 20 hours of sign language interpretation services during the year that the temporary certificate is valid. If the 20 hours are not obtained before the temporary certificate expires, the applicant shall apply for another temporary certificate.
- ~~C.~~ Beginning January 1, 2005, the Council shall no longer issue temporary certificates of competency.
- A. To be eligible for a one-year provisional sign language legal interpreter license or provisional deaf legal interpreter license, an applicant shall meet the requirements of:
1. R9-26-502(A), excluding subsection (5), as applicable, or
 2. R9-26-503(A), excluding subsection (5), as applicable.
- B. An applicant for licensure as a provisional sign language legal interpreter or provisional deaf legal interpreter shall submit to the Commission documentation of compliance with the requirements of subsection (A) and an application form that provides the following information:
1. The applicant's name, current home address, business address, and home and business telephone numbers;
 2. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;
 3. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;
 4. A list of all states and countries in which the applicant is or has been licensed as a legal interpreter;
 5. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state, country, or organization upon the applicant's legal interpreter license or interpreter certification;
 6. A statement of whether the applicant has a physical or mental condition that may impair the applicant's ability to act as a legal interpreter; and
 7. A statement signed by the applicant verifying the truthfulness of the information provided by the applicant.
- C. A person holding a provisional sign language legal interpreter license or deaf legal interpreter license shall complete 40 hours of mentoring under the supervision of a sign language legal interpreter or deaf legal interpreter within one year of the issuance of the provisional license. If the licensee does not complete the 40 hours of mentoring prior to the expiration of the one-year provisional license, the licensee may submit a written request to the Commission for a second one-year provisional license in order to complete the mentoring requirement. Only one one-year renewal shall be granted unless the licensee shows good cause for the granting of additional renewals.
- D. Upon completion of 40 hours of mentoring, the licensee shall submit to the Commission a notarized affidavit, signed by the supervising interpreter who provided the mentoring, affirming that the applicant has completed the required 40 hours of mentoring.
- E. Within 15 calendar days of receiving the documentation required in subsection (D), the Commission shall issue a sign language legal interpreter license under the provisions of R9-26-502 or a deaf legal interpreter license under the provisions of R9-26-503, as applicable.
- F. A provisional license expires one calendar year after the date of issue.

R9-26-505. ~~Expired Oral Legal Interpreter Licensure~~

- A. To be eligible for an oral legal interpreter license, an applicant shall:
1. Hold a current RID OIC:C or RID OTC certification; or have provided at least five years of oral interpreting services immediately before the date of application;
 2. Hold, at a minimum, an associate of the arts degree awarded by an accredited academic institution in any academic field or have completed 60 credit hours or the equivalent of 60 credit hours from an accredited academic institution; and
 3. Have completed a minimum of six hours of legal training.
- B. An applicant for licensure as a provisional sign language legal interpreter or deaf legal interpreter shall submit to the Commission documentation of compliance with the requirements of subsection (A) and an application form that provides the following information:
1. The applicant's name, current home address, business address, and home and business telephone numbers;
 2. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

3. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;
4. A list of all states and countries in which the applicant is or has been licensed as a legal interpreter;
5. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state, country, or organization upon the applicant's legal interpreter license or interpreter certification;
6. A statement of whether the applicant has a physical or mental condition that may impair the applicant's ability to act as a legal interpreter; and
7. A statement signed by the applicant verifying the truthfulness of the information provided by the applicant.

C. After August 1, 2005, an applicant shall hold OTC certification to be licensed under this Section.

R9-26-506. ~~Oral Interpreter Certification~~ Realtime Reporter Licensure

A. ~~The Council may issue an oral interpreter certificate of competency to an applicant who files an application with the Council, and submits the following:~~

1. ~~A certified copy of the applicant's RID-OIC certification, or documentation indicating that the applicant has provided at least 360 hours of oral interpreter services within the three years immediately preceding the date the applicant filed the documentation with the Council;~~
2. ~~The information required in R9-26-503(A)(2)(b), (c), (d), (e), (f), and (g); and~~
3. ~~A statement on the applicant's affidavit that the applicant understands that the applicant shall obtain RID-OIC certification by January 1, 2005, if not already obtained, and shall complete the continuing education requirements necessary to maintain current RID certification.~~

B. ~~After January 1, 2005, applicants for oral interpreter certificates of competency shall have an RID-OIC certification to satisfy subsection (A)(1).~~

A. To be eligible for a realtime reporter license, an applicant shall hold current RPR, CRR, or CCP certification.

B. An applicant for licensure as a realtime reporter shall submit to the Commission documentation of compliance with the requirements of subsection (A) and an application form that provides the following information:

1. The applicant's name, current home address, business address, and home and business telephone numbers;
2. If applicable, the name of the applicant's employer and the employer's current business address and telephone number;
3. A statement of whether the applicant has ever been convicted of a felony or of a misdemeanor involving moral turpitude in this state or any other state;
4. A list of all states and countries in which the applicant is or has been licensed as a realtime reporter;
5. A statement of whether any disciplinary action, consent order, or settlement agreement is pending or has been imposed by any state, country, or organization upon the applicant's legal interpreter license or realtime reporter certification;
6. A statement of whether the applicant has a physical or mental condition that may impair the applicant's ability to act as a realtime reporter; and
7. A statement signed by the applicant verifying the truthfulness of the information provided by the applicant.

R9-26-507. ~~Realtime Reporter Certification~~ License Application Time-frames; Processing Procedures

A. ~~The Council may issue a realtime reporter certificate of competency to an applicant who files an application with the Council, and submits the following:~~

1. ~~A certified copy of the applicant's Superior Court certification issued pursuant to A.R.S. § 12-222, and a notarized affidavit, signed by the applicant, attesting that the applicant has provided realtime translation in at least two trials in state or federal court; or~~
2. ~~A certified copy of the applicant's NCRA Registered Professional Reporter, Registered Merit Reporter, or Registered Diplomate Reporter certification, and a notarized affidavit, signed by the applicant, attesting that the applicant has provided realtime translation in at least two trials in state or federal court; or~~
3. ~~A certified copy of the applicant's CRR, and a notarized affidavit, signed by the applicant, attesting that the applicant follows the NCRA ethical requirements, set forth in subsection (C); and~~
4. ~~A statement on the applicant's affidavit that the applicant understands that the applicant shall obtain NCRA-CRR certification by January 1, 2005, if not already obtained, and shall complete the continuing education requirements necessary to maintain current NCRA-CRR certification.~~

B. ~~After January 1, 2005, NCRA-CRR certification shall be the only certification that shall satisfy subsection (A).~~

C. ~~Realtime translators shall comply with the following NCRA Code of Professional Ethics, Section II: Realtime Reporter as Assistive Technology in Legal Proceeding requirements:~~

1. ~~Explain, before beginning realtime reporting, who has hired the reporter, what is to be reported, and that the realtime is to be used as assistive technology, not as a verbatim record of the proceeding;~~
2. ~~Determine, before beginning realtime reporting, who owns the residual computer file;~~

Notices of Proposed Rulemaking

3. Keep all assistive, assignment-related information confidential;
4. Render as near a verbatim translation as possible, conveying the content and spirit of the speaker, using substitute language that is computer-translatable for the deaf person to understand, and using parentheticals to describe to the deaf person all sounds during the proceeding;
5. Maintain absolute neutrality in all proceedings, by not counseling, advising, or interjecting personal opinions;
6. Accept assignments using discretion with regard to their skills, the setting, the deaf person being assisted, and accurately assessing the reporter's qualifications for realtime translation;
7. Know how to operate the software and hardware being used, including being able to troubleshoot anticipated problems that occur with software and hardware;
8. Further their knowledge and skills by participating in workshops, professional meetings, interaction with professional colleagues, reading current literature, and achieving additional state or national realtime certifications; and
9. Save a hard copy or computer disk of the actual translation that the deaf person saw on screen. If the translation is saved on computer disk, it shall be in text, or American standard code for information interchange format.
10. In addition to the ethical requirements in subsections (C)(1) through (9), realtime reporters shall not simultaneously act in a dual capacity as a realtime reporter for the benefit of a deaf person, and the stenographer who is recording the official verbatim record of the proceeding.

A. For any legal interpreter license application, the overall time-frame described in A.R.S. § 41-1072(2) is 45 days.

B. For any legal interpreter license application, the administrative completeness review time-frame is 15 days and begins on the date the Commission receives an application packet.

1. When the Commission receives a complete application packet, the Commission shall send a written notice of administrative completeness to the applicant.
2. If an application packet is incomplete, the Commission shall send to the applicant a written notice of incompleteness that states each deficiency and the information or documents needed to complete the application packet. The administrative completeness review time-frame and the overall time-frame are suspended from the date of the notice until the date the Commission receives a complete application packet.
3. If the applicant does not submit a complete application packet within 30 days from the date the Commission sends a written notice of incompleteness to the applicant, the Commission shall consider the application withdrawn.
4. If the Commission sends a written notice of approval to the applicant during the time provided to assess administrative completeness, the Commission shall not provide a separate written notice of administrative completeness.

C. For any of the legal interpreter license applications, the substantive review time-frame described in A.R.S. § 41-1072(3) is 30 days and begins on the date the Commission sends written notice of administrative completeness to an applicant.

1. If an applicant does not meet the requirements of this Article, the Commission shall send to the applicant a written comprehensive request for additional information that states each statute and rule upon which the request is based. The substantive review time-frame and the overall time-frame are suspended from the date the written comprehensive request is sent until the date the Commission receives the requested information.
 - a. If an applicant does not submit the requested information within 30 days of the date the Commission sends the comprehensive written request to the applicant, the Commission shall consider the application withdrawn.
 - b. If the information submitted by the applicant does not meet the requirements of this Article, the Commission shall send a written notice of denial to the applicant including a basis for the denial and an explanation of the applicant's right to appeal under A.R.S. Title 41, Chapter 6, Article 10.
2. If an applicant meets the requirements of this Article, the Commission shall send written notice of approval to the applicant.

R9-26-508. ~~Application Processing Procedures; Issuance; Denial License Denial; Revocation; Complaint Process~~

- A.** ~~Within 15 calendar days of receiving an initial or renewal certificate of competency application of any type, the Council shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.~~
- B.** ~~An applicant with an incomplete package shall supply the missing information within 10 calendar days from the date of the notice. If the applicant fails to do so, the Council may close the file. An applicant whose file has been closed shall begin the application process anew.~~
- C.** ~~Upon receipt of all missing information within 10 calendar days, the Council shall notify the applicant, in writing, that the application is complete.~~
- D.** ~~The Council shall not process a certificate of competency application until the applicant has fully complied with the requirements of this Article.~~
- E.** ~~The Council shall notify an applicant, in writing, whether the certificate of competency is granted or denied, no later than 30 calendar days after the postmark date of the notice advising the applicant that the package is complete.~~
- F.** ~~The Council may deny a certificate of competency for any of the following reasons:~~
 1. ~~Failure to provide complete documentation;~~
 2. ~~Providing false or misleading information, or~~

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

3. Failure to meet the requirements stated in this Article.
- ~~G.~~ The notice of denial shall include the following:
 1. Reasons for the denial, with citations to the statutes or rules on which the denial is based;
 2. The applicant's right to request reconsideration pursuant to subsection (H); and
 3. The name and telephone number of an agency contact person who can answer questions regarding the application process.
- ~~H.~~ The following time frames shall apply for initial and renewal certificate of competency applications:
 1. Administrative completeness review time frame: 15 calendar days.
 2. Substantive review time frame: 30 calendar days.
 3. Overall time frame: 45 calendar days.
- ~~I.~~ Within 15 calendar days of the mailing date of the Council's notice of denial, the applicant may submit a request for reconsideration to the Council, setting forth the facts that justify reconsideration of the denial. The Council shall review all documentation, and interview any persons with information relevant to issuing or denying the applicant's certificate.
- ~~J.~~ Within 10 calendar days of receiving the applicant's request for reconsideration, the Council shall notify the applicant, in writing, whether the denial is upheld. If a denial is upheld, the Council's notice upholding the denial shall include the following:
 1. Reasons for the denial, with citations to the statutes or rules on which the denial is based;
 2. The applicant's right to appeal the denial, including the number of days in which the applicant has to file a request for hearing to challenge the denial, and the right to request an informal settlement conference pursuant to A.R.S. § 41-1092.06;
 3. The name and telephone number of an agency contact person who can answer questions regarding the appeal process.
- ~~K.~~ An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.
- ~~A.~~ The Commission may deny or revoke a license for the following reasons:
 1. The applicant or licensee falsified any license application or renewal information provided to the Commission;
 2. The applicant or licensee has violated the RID, NAD, or NCRA ethical requirements;
 3. The applicant or licensee has been found negligent in any civil litigation in providing interpreting or realtime reporting services;
 4. The applicant or licensee has been convicted of a felony or any other offense involving moral turpitude;
 5. The applicant or licensee has a mental or physical disability that may impair the applicant's or licensee's ability to act as a legal interpreter; or
 6. The applicant or licensee failed to comply with the requirements of this Article.
- ~~B.~~ A complaint shall be in writing or on videotape and contain the name, address, telephone number, and if written, signature of the complainant. A complaint may be written by someone else on behalf of the complainant.
- ~~C.~~ Within 20 calendar days of receiving a complaint, the Commission shall mail the complaint to the licensee.
- ~~D.~~ The licensee may file a written response to the complaint with the Commission within 20 calendar days of the date postmarked on the complaint mailed by the Commission.
- ~~E.~~ The Commission shall investigate the complaint and either dismiss the complaint or send the matter to a formal hearing within 60 calendar days of receiving the complaint.
- ~~F.~~ If the complaint is sent to a formal hearing, the hearing will be conducted under A.R.S. Title 41, Chapter 6, Article 10.

R9-26-509. Certification Renewal Rehearing or Review of Decisions

Certification of competency holders shall renew their certificates on or before January 1 of every year. If January 1 is a Saturday, Sunday, or legal holiday, the renewal deadline is the first business day following the Saturday, Sunday, or legal holiday. To renew certificates of competency, the certificate holder shall file all the following documentation with the Council:

1. A certified copy of the certificate holder's current RID, or NCRA, certification;
2. A notarized affidavit, signed by the certificate holder, attesting that since the Council issued the certificate, whether the certificate holder:
 - a. Has been disciplined or is currently the subject of any disciplinary action in any jurisdiction, or before RID or NCRA, as applicable, relating to providing interpretation or realtime reporting services, respectively, or adhering to the RID or NCRA ethical requirements of R9-26-503(C) or R9-26-507(C), respectively;
 - b. Has been named as a defendant in any law suit alleging that the certificate holder was negligent in providing interpretation services, or alleging the certificate holder violated the RID ethical requirements of R9-26-503(C), or alleging the certificate holder was negligent in providing realtime reporting services, or alleging the certificate holder violated the NCRA ethical requirements of R9-26-507(C);
 - c. Follows the RID ethical requirements of R9-26-503(C), or NCRA ethical requirements of R9-26-507(C), as applicable;

Notices of Proposed Rulemaking

- d. Understands that it is the certificate holder's duty to ensure that the certificate holder's interpreting, or translating, skills meet the deaf person's communication needs, and that failure to do so may be grounds for revocation of the certificate holder's certificate of competency;
 - e. Has completed the requirements necessary to maintain RID, or NCRA certification and understands the certificate holder shall continue to maintain current RID, or NCRA certification;
 - f. Has completed at least three clock hours of continuing legal education since the effective date, or the last renewal date of the certificate of competency, whichever is more recent; and
 - g. Has maintained accurate records of compliance with the continuing legal education requirements of this Article, and shall make these records available for examination upon this Council's request.
3. The certificate holder's current name, address, and telephone number.
- A.** A party to a case who wants to contest the Commission's decision may, within 30 days after the date of the service of the decision, file with the Commission a written request for a rehearing or review of the decision. The request shall specify the particular grounds for the rehearing or review. The requesting party shall serve copies upon all other parties. A request for rehearing or review under this Section may be amended at any time before it is ruled upon by the Commission.
- B.** The opposing party may file a response to the request for a rehearing or review within 15 days after the written request is received.
- C.** A rehearing or review of the decision may be granted for any of the following causes that materially affect the requesting party's rights:
- 1. Irregularity in the proceedings or any abuse of discretion that deprives the requesting party of a fair hearing;
 - 2. Misconduct of the hearing officer or the prevailing party; Accident or surprise that could not have been prevented by ordinary prudence;
 - 3. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the original hearing;
 - 4. Excessive or insufficient penalties;
 - 5. Error in the admission or rejection of evidence or other errors of law occurring during the proceedings; or
 - 6. The decision is not supported by the evidence or is contrary to law.
- D.** Upon examination of a request for review and any response or after rehearing, the Commission may affirm or modify the decision, or order a rehearing. The order for a rehearing shall specify the grounds on which the rehearing is based.
- E.** Within 15 days after the Commission issues a decision, the Commission may, on its own initiative, order a rehearing or review of the decision for any reason for which a rehearing on motion of a party may be granted.

R9-26-510. Certification-Revocation License Renewal

- A.** The Council may revoke a certificate of competency based on a complaint from any person alleging any of the following reasons:
- 1. The certificate holder has falsified any application or renewal information; or
 - 2. The certificate holder has violated the RID or NCRA ethical requirements of R9-26-503(C) or R9-26-507(C), respectively.
- B.** A complaint alleging any of the reasons for revocation shall be in writing, with the name, address, telephone number, and signature of the person filing the complaint. A complaint may be written by someone on behalf of the complainant, but also shall include the complainant's name, address, telephone number, and signature, indicating that the complaint is filed by the complainant. A complaint may be videotaped, with the complainant signing the complaint, but also shall include the complainant's name, address, and telephone number.
- C.** Within 20 calendar days of receiving a complaint, the Council shall mail the complaint to the certificate holder, and request the certificate holder to respond.
- D.** The certificate holder shall file a written response to the complaint with the Council, in writing, within 20 calendar days of the date that the complaint was mailed to the certificate holder.
- E.** The Council shall investigate the complaint and either dismiss the complaint, or send the matter to a formal hearing, within 60 calendar days of receiving the complaint. If no grounds are found to support the complaint, the Council shall dismiss the complaint.
- F.** If the complaint is sent to a formal hearing, the hearing shall be conducted pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10. A party to the hearing has an opportunity for rehearing or review, and judicial review pursuant to A.R.S. Title 41, Chapter 6, Article 10, and A.R.S. Title 12, Chapter 12, Article 6.
- A.** Licensees, other than those under R9-26-504, shall annually renew their licenses not earlier than 60 days before and not later than 30 days after the licensee's birthday by filing the following with the Commission:
- 1. The licensee's current name, address, and telephone number;
 - 2. A copy of the licensee's current RID, NAD, or NCRA certification; and
 - 3. A notarized affidavit, signed by the licensee, attesting to whether since the Commission issued the license, the licensee:

Arizona Administrative Register / Secretary of State
Notices of Proposed Rulemaking

- a. Has completed at least five hours of continuing legal education since the effective date or the last renewal date of the license, whichever is more recent;
- b. Has maintained accurate records of compliance with the continuing legal education requirements of this Article, and understands that the licensee shall make these records available for examination at the Commission's request;
- c. Has been disciplined by RID, NAD, or NCRA;
- d. Has been found liable in a lawsuit alleging that the licensee was negligent in providing interpretation or reporting services;
- e. Has been convicted of a felony or any other offense involving moral turpitude; or
- f. Has been adjudicated insane or incompetent.

R9-26-511. Rehearing or Review of Decisions Grandfathering of Legal Interpreters

- ~~A.~~ If a party to an appealable agency action or contested case files a Motion for Rehearing or Review with the Council, it shall be filed not later than 30 calendar days after service of the decision, and shall specify the particular grounds for the motion. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party's last known residence or place of business.
- ~~B.~~ A rehearing or review may only be granted for any of the following reasons materially affecting the moving party's rights, or ability to receive a fair hearing:
 - 1. Any irregularity in the administrative hearing, any order or abuse of discretion by the administrative law judge or the Council;
 - 2. Misconduct of the Council, or the administrative law judge, or prevailing party;
 - 3. Accident or surprise which could not have been prevented by ordinary prudence;
 - 4. Newly discovered material evidence which could not have been discovered with reasonable diligence and produced at the original hearing;
 - 5. Excessive or insufficient penalties;
 - 6. Error in the admission or rejection of evidence or other errors of law occurring at the administrative hearing; or
 - 7. A decision which is not justified by the evidence or is contrary to law.
- ~~C.~~ Not later than 15 calendar days after the Council's receipt of a motion for rehearing or review, the Council may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Council may grant a rehearing or review for a reason not stated in the party's motion. An order modifying a decision or granting a rehearing or review shall specify with particularity the ground or grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.
- ~~D.~~ Not later than 15 calendar days after a decision is rendered, the Council may on its own initiative order a rehearing or review for any of the reasons stated in subsection (B), after giving the parties or their counsel notice and an opportunity to be heard.
- ~~E.~~ When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party shall have 10 calendar days from the date of service to serve opposing affidavits. This period may be extended by the Council for good cause up to 20 calendar days, or by written stipulation of the parties. If reply affidavits are permitted, they shall be served within five calendar days of service of the opposing affidavits.
- A. The Commission shall issue a sign language legal interpreter license, deaf legal interpreter license, or realtime reporter license to a person who holds a current and valid certificate of competency on December 31, 2003 without regard to the provisions of R9-26-502, R9-26-503, R9-26-505, or R9-26-506, as applicable.
- B. A person who is granted a license under this Section shall renew the license under R9-26-510 and meet the requirements of R9-26-502(C), R9-26-503(C), or R9-26-505(C), as applicable.
- C. This Section expires on August 1, 2006.